South Pacific Division
USACE

PLANNING

May 2000

SPD Planners' Conference -
Santa Fe, NM

South Pacific Division
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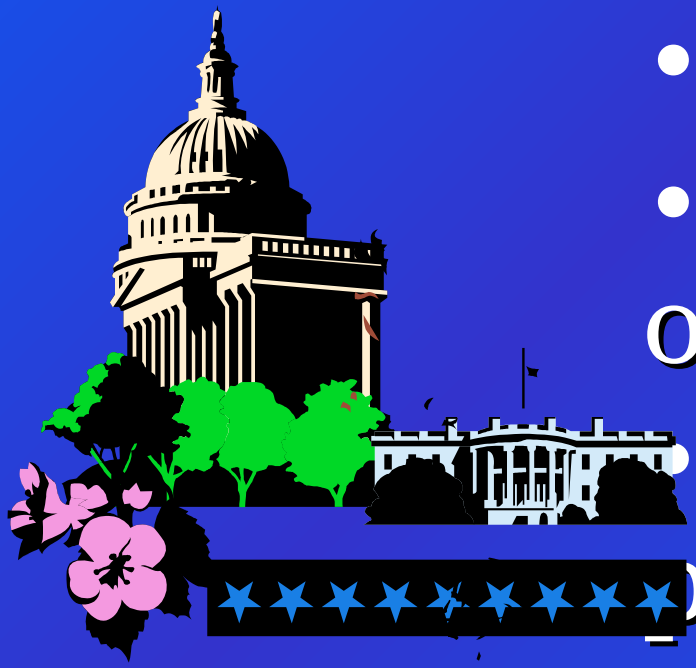
COMPLIANCE

[and what you need to know to have it]

COMPLIANCE

With what does project need to be in compliance?

- Laws, statutes
- Executive orders
- Regulations, policies



COMPLIANCE

- ER 1105-2-100, 22 April 2000 [par. 2-7]
  - "CW studies and projects should be in compliance with all applicable Federal environmental statutes and regulations and with applicable State laws and regulations where the Federal government has clearly waived sovereign immunity."
- Integration with NEPA to reduce process overlap and duplication

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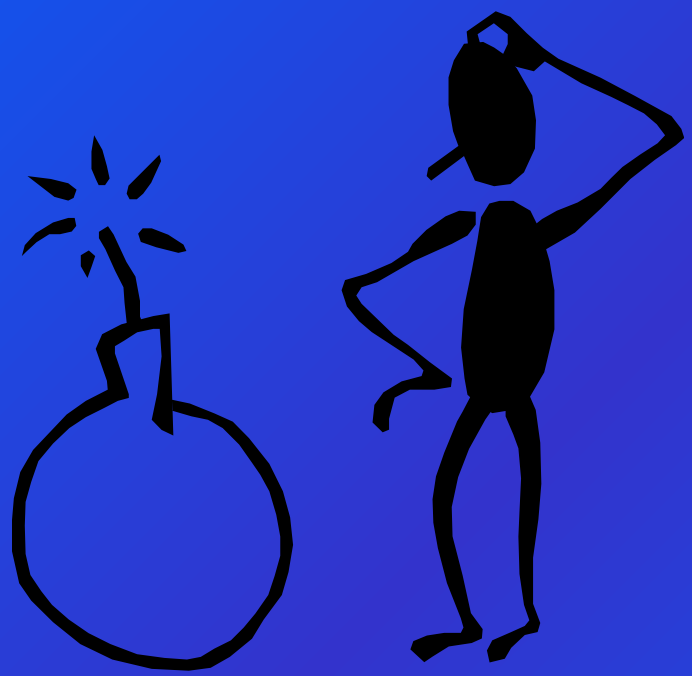
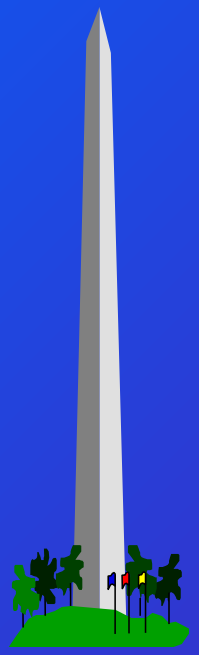
Backward Trend



- HQ & ASA(CW) concerned about non-compliance
- Projects must comply with NEPA
- If NEPA is compliant, all other environmental statutes should be as well
- One exception

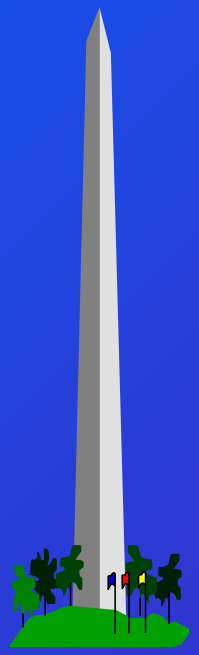
SOME STATUTES

- National Environmental Policy Act
- Clean Air Act
- Clean Water Act
- Coastal Zone Management Act
- Endangered Species Act
- Magnuson-Stevens Fishery Conservation & Management Act [EFH]



MORE STATUTES

- Farmland Protection Policy Act
- Fish and Wildlife Coordination Act
- Marine Protection, Research, and Sanctuaries Act
- National Historic Preservation Act
- Wild and Scenic Rivers Act



Which is not a coastal statute?

a. MPRSA

b. MSFCMA

c. EO 12898

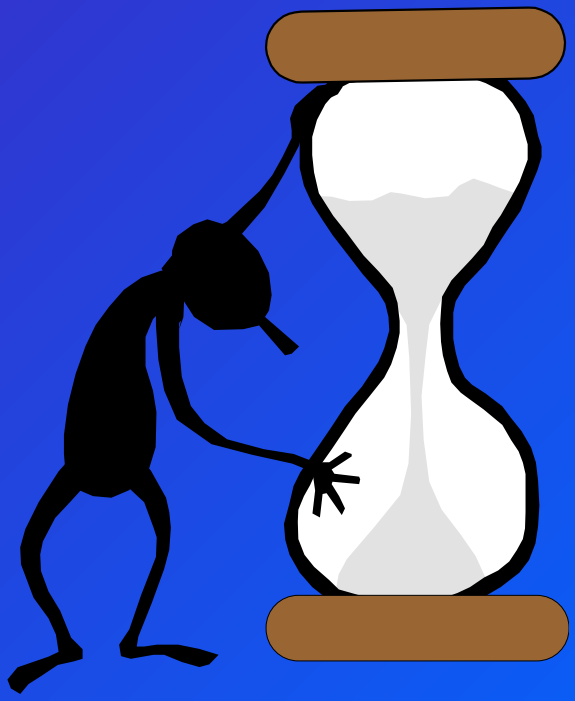
NEPA

- When?
- How?

NEPA

- Feasibility phase

- EA/FONSI
- Final EIS/ROD



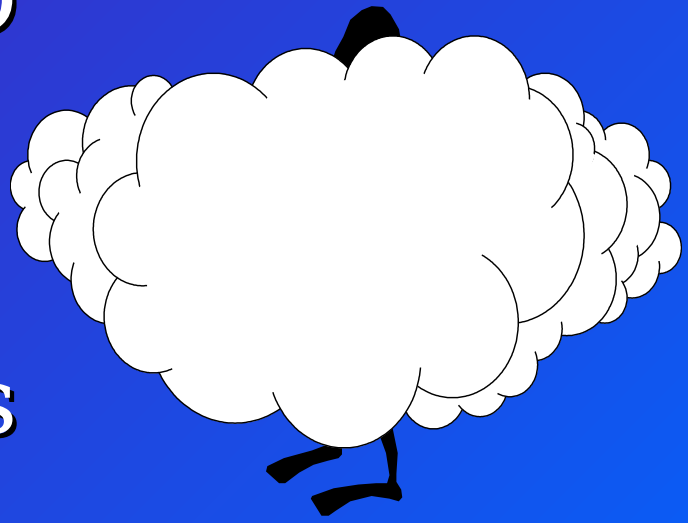
CLEAN AIR

- When?
- How?

CLEAN AIR

- Feasibility phase
- Before FONSI/ROD

- *de minimis*
- conformity analysis



CLEAN WATER

- When?
- How?

CLEAN WATER

- Feasibility phase w/EIS
- [during PED; before PCA]

- water quality certification
- [State letter of support]
- Section 404r - waives WQ cert. requirement

COASTAL ZONE MANAGEMENT

- When?
- How?

COASTAL ZONE MANAGEMENT

- Feasibility phase
- Consistency determination
- State concurrence
- [State letter of support]

ENDANGERED SPECIES

- When?
- How?

ENDANGERED SPECIES

- Feasibility phase
- Confirmation of no effect
- Formal consultation

ESSENTIAL FISH HABITAT

- When?
- How?

ESSENTIAL FISH HABITAT

- Feasibility phase
- Describe in NEPA document

FARMLAND PROTECTION

- When?
- How?

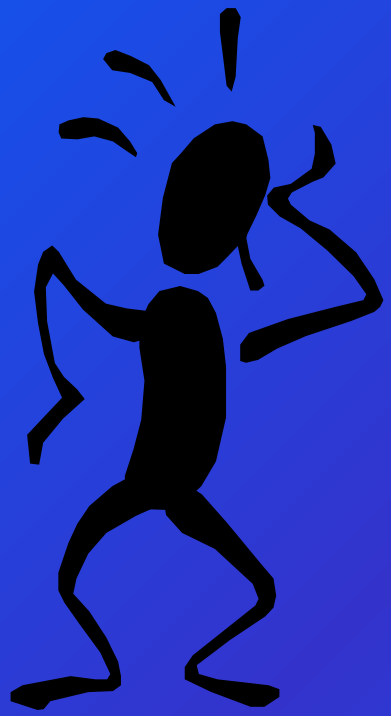
FARMLAND PROTECTION

- Feasibility phase
- Letter request for identification
- Response from NCRS

FISH & WILDLIFE

- When?
- How?

FISH & WILDLIFE



- Feasibility phase
- Coordination Act Report
- Recommendations

MPRSA

- When?
- How?

MPRSA

- Feasibility phase
- Notice of use of ocean disposal site
- EPA concurrence

NATIONAL HISTORIC PRESERVATION

- When?
- How?

NATIONAL HISTORIC PRESERVATION

- Feasibility phase
- Coordination with ACHP, SHPO and/or THPO

ADVISORY COUNCIL ON HISTORIC PRESERVATION
New Regulations

- Who knows about the new regulations?
- Note: National Mining Association challenged legality of the final rule [36 CFR Part 800] -Lengthy legal process expected-
- Legal complaint should not affect the way we do business
- Check the website for details: http://www.achp.gov/106changes.html

WILD & SCENIC

- When?
- How?

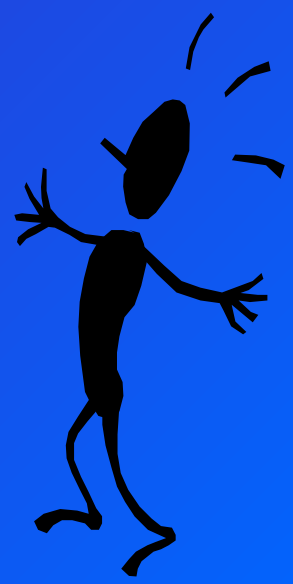
WILD & SCENIC

- Feasibility phase

- Listing consulted
- Informal coordination w/NPS

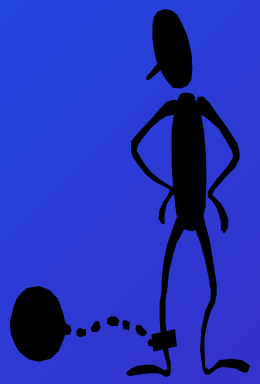
NON-POINT SOURCE

- Water Quality Act 1987 [Coastal Zone Amend.]
- State NPS management programs approved by EPA
- Consistency of project with State NPS management programs
- Nonpoint Source Guidance, EPA, 12/87 [52 FR 47971]



NON-POINT SOURCE

- Is there a State plan/program? Has EPA approved?
- How does project fit with State plan? [Consistency]
- Are there actions to facilitate State plan being taken by local government or sponsor?



NOTEWORTHY

- Food Security Act - Coordination w/Dept. of Agriculture, Natural Resources Conservation Service
- Nat'l Wildlife Refuge System Admin Act - Coordination w/Regional Director, USFWS - compatibility determination on use of refuge lands
- Native American Graves Protection & Repatriation Act - EO 13007

EXECUTIVE ORDER 11988

aka: *Flood Plain Management*

- Should not undertake actions which directly or indirectly induce growth in the floodplain unless there is no practical alternative
- Construction of structures and facilities must incorporate flood proofing and other accepted flood protection measures
- Must be included in NEPA document

EXECUTIVE ORDER 11990

aka: ***Protection of Wetlands***

- Avoid undertaking new construction located in wetlands unless there is no pr[illegible] alternative
- Should be included i[illegible] document
- Exempts assistance for emergencies

EXECUTIVE ORDER 12898

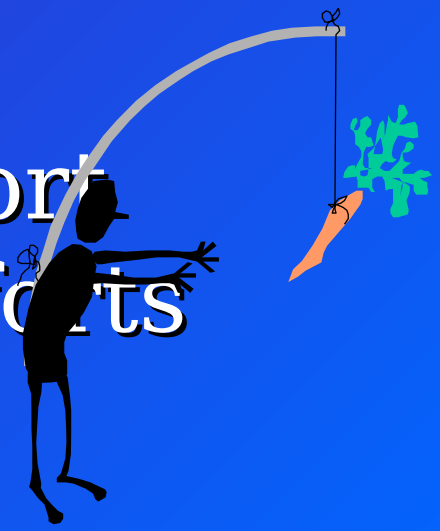
aka: ***Environmental Justice***

- Binding guidance is EO itself
- What are the relevant issues?
  - HTRW
  - establishment of waste sites
  - undesirable land use
- If relevant, should be included in NEPA document

EXECUTIVE ORDER 13061

aka: *Federal Support along American Heritage Rivers*

- Establishes American Heritage Rivers initiative
  - resource protection
  - economic revitalization
  - historic & cultural preservation
- Federal role to support community-based efforts



What does this picture show that is of concern for Corps projects?

Airport operators must take immediate action to eliminate wildlife hazards any time they are detected. (Photo by E. A. LeBoeuf, USAF)

Bird Strikes & Corps Projects

- **FAA Guidance: Advisory Circular (150/5200-33), Hazardous Wildlife Attractants on or Near Airports**
- **http://www/faa.gov/arp/pdf/5200-33.pdf**
- **Wildlife Hazard Management at Airports: 267 pp available at: M:\ET-P\Bird Strike\manfin.pdf**

CHALLENGES

- Timely receipt of resource agency documentation
- Coordination with NEPA document
- Coordination with HQ

SUGGESTION

- Develop compliance checklist

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Discussion

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